

REMARKS

Claims 1-18 are pending in this application, with claims 1 and 18 being in independent form. Claims 1, 5, 11, 15, and 16 have been amended to define still more clearly what Applicants regard as their invention. In particular, the recitations of claim 2 have been incorporated into claim 1, and, therefore, entry of this amendment is believed clearly proper.

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being obvious from U.S. Patent 5,182,922 to Allread in view of U.S. Patent 6,969,094 to Frohling, and as being obvious from Allread in view of U.S. Patent 5,174,612 to Schnell.

As an initial matter, as pointed out in the previous Amendment, the Office Action does not make out rejections of the dependent claims, even if it refers to them generally. The Office Action thus amounts to a general allegation that the dependent claims are unpatentable, without clearly explaining the pertinence of each reference as it applies to each rejected claim, as Applicant submits is warranted. 37 C.F.R. § 1.104(c)(2) provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

See also MPEP § 706. It is therefore requested that if the next Action is not an allowance the Examiner clearly explain the pertinence of each reference as it applies to each rejected claim, in a new, non-final Office Action.

Applicants submit that independent claims 1 and 18, together with the claims dependent therefrom, are patentably distinct from the cited references for at least the following reasons.

Claim 1 is directed to a motor vehicle having at least one air conditioning system (1)

ducting (6,12,15) that connects a compressor (3) attached to an engine (2) of the motor vehicle with at least one heat exchanger (8,10) attached to a body (7) of the motor vehicle, wherein the ducting (6,12,15) has at least one curve (37-40). The ducting is made entirely of metallic substance, inclusive of couplings (42-45) thereof, and has an outside diameter of no more than 13 mm. The ducting has a second curve, one curve being for damping and one curve being determined by a geometry of a compartment for the engine compartment.

Applicants have carefully reviewed the Examiner's comments set out in the Office Action and respectfully submit that the arguments of the Examiner are contradictory and unfounded. The statement "Allread, et al discloses the claimed invention except for the couplings being made entirely of metallic substance" is incorrect and misleading in view of the fact that the object of Allread is to avoid the drawbacks of torsional forces and bending moments, resulting in stress cracking and refrigerant loss (see, e.g., column 4, lines 48-53 of Allread) by the use of "selectively positioned flexible connectors capable of accommodating... in each respective rigid tube line" (see column 4, lines 54-65 of Allread).

Accordingly, replacing such (additional) flexible connectors (30) by unflexible pipe couplings according to Frohling would be contradictory to the teaching of Allread, in addition to the fact that the unflexible pipe couplings of Frohling are not selectively positioned as taught by Allread (see column 4, lines 58-59 of Allread) but are only on places where a coupling is required for connecting fundamental components of a fluid transport system.

**PRIOR ART MUST BE CONSIDERED IN ITS
ENTIRETY, INCLUDING DISCLOSURES THAT
TEACH AWAY FROM THE CLAIMS *MPEP* 2141.02 VI
(emphasis original)**

Furthermore, replacing the elastic material used in the pipe couplings according to Allread by a metallic material as used by Frohling or Schnell is technically not reasonable or

possible. Such replacement would make such coupling inflexible or not tight and, therefore, unusable for the intended purpose.

**THE PROPOSED MODIFICATION CANNOT RENDER
THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED
PURPOSE** *MPEP* 2143.01 V (emphasis original)

The above arguments traversing the rejection also apply to paragraph 2 of the Office Action. Of course, coupling rigid length of tubing according to Allread by rigid couplings according to Frohling or Schnell would lead to a stiff system which is not tolerable in view of the objects as explained by Allread. in its "SUMMARY OF THE INVENTION" section (see in particular column 2, lines 28-50).

As to paragraph 4 of the Office Action, the Examiner's statement that the curves of the ducting according to Allread are curves for damping and the corresponding features of claim 1 correspond to a mere functional recitation is incorrect and unfounded. As explained above, Allread uses rigid tubing lines connected to each other by flexible connectors. Allread would not have any reason to use such expensive and complicated flexible connectors if the rigid curves determined by the fundamental geometry of the air conditioning system would itself provide the required damping.

... [R]ejections on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *MPEP* 2141.III, quoting *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385, 1396 (2007). (Emphasis added.)

For at least the foregoing reasons, claims 1 and 18 are seen to be clearly allowable over the cited references.

The other claims in this application are each dependent from claim 1 discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also

deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

This Amendment After Final Rejection is believed clearly to place this application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Amendment After Final Rejection, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application

Respectfully submitted,

John Richards
c/o Ladas & Parry LLP
26 West 61st Street
New York, New York 10023
Reg. No. 31053
Tel. No. (212) 708-1915